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AUTHOR	Hill, Paul T.; Warner-King, Kelly; Campbell, Christine; McElroy, Meaghan; Munoz-Colon, Isabel
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ABSTRACT

Though the public believes that urban school boards should handle problems with failing schools, urban school boards spend very little time considering ways to turn such schools around or transforming the educational experiences of at-risk students. Today's school board members are expected to be interest representatives, trustees for children, and delegates of the state. These missions are in conflict because they require boards to serve different masters and accomplish different objectives. Mission confusion is one reason why school boards often look disorganized. Legislatures exercise great control over local school boards, since boards operate on a grant of authority from the state. School board duties are defined via accretion. Past approaches to school board missions (i.e., discipline via standards, school board training, and imitating boards of private business) have failed. Options for righting the balance in favor of trusteeship include broadening the constituency to which school board members answer, limiting school boards' basic powers and duties, and eliminating school boards' exclusive authority to oversee schools in a particular geographic area. Three appendices contain data on school board duties defined by accretion under state law, school board responsibilities, and how state and mayoral takeovers have changed school board powers. (Contains 26 footnotes.) (SM)

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BIG CITY SCHOOL BOARDS: PROBLEMS AND OPTIONS

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Newspapers across the country are filled with stories about failing schools and large numbers of students who cannot pass statewide exams or who abandon school before graduating. Everyone thinks urban school boards should do something about these problems. However, urban school boards spend very little of their time considering ways to turn around failed schools or thinking about transforming the educational experiences of the children least likely to succeed. On the contrary, board meetings are typically spent listening to everything from next year's budget and citizen's complaints to wading through changes in bus schedules and presenting awards. A vision of education is not the first thing to come to mind when boards and their members are brought up for discussion.

Today, school boards are expected to be:

> **Interest representatives:** protecting and distributing benefits to neighborhoods, ethnic groups, or political coalitions that make up part, but not all, of the community served by the school district.
>
> **Trustees for children:** ensuring young people are fully prepared for the future demands of citizenship and economic life, even when those needs conflict with the shorter term concerns of taxpayers, school employees, and parents.
>
> **Delegates of the state:** administering programs created by the state government and fulfilling mandates established by state and federal governments and by courts.

These missions are in conflict because they require boards to serve different masters and accomplish different objectives. Boards that serve children's long term educational needs above all else can fail on other missions, e.g. representing constituents who want to minimize education's cost to taxpayers, or protecting unproductive school employees. Boards that try to be faithful implementers of directives from the state can dash the hopes of their local constituents or impose burdens that make schools less effective.[2] For example, some state policies (e.g. mandatory reductions in class size) have been shown to improve student learning in some districts and lead to declines in school quality in others.[3]

Mission confusion—between the board's roles as trustee for children, representing interest groups, and overseeing management and administration—is one reason why school boards often look disorganized and

2. See Knapp et. al on state mandates
3. See Bjornstedt, George, Brian Stecher et. al., *What We Have Learned About Class Size Reduction In California*, Menlo Park CA, The CSR Research Consortium 2002.

even knavish. For the most part, however, the confusion is not of the boards' making. Critics say that school boards meddle in issues that should be left to professionals, treat schooling as a formal government program rather than as community-based caring function, and provide perches from which ambitious individuals can run for higher office.

Critics are correct in all respects. However, these facts are deeply rooted in history and public policy. Boards and board members are required by law to assume responsibilities in a large number of areas:

- School buildings and grounds—acquisition, construction and maintenance
- Professional and support staff—hiring, training and supervising
- Funding—acquiring, allocating and accounting for
- Curriculum—developing, insuring compliance with state requirements
- Transportation of students
- Attendance—enforcing mandatory attendance laws.[4]

Legal advisers can easily make the case that boards may be held responsible (and school districts held liable) for many of the details involved in, for example, transportation policy or curriculum. (If a state mandates safety seats for small or young children, what are school bus drivers required to do for kindergarten and first-grade students on field trips? If a diploma depends on passing a competency examination, can the district be held liable for a poor curriculum?) In this light, board members who micro-manage, play politics, or intervene on behalf of individual parents or school employees do not misunderstand the traditional school board mission. They understand it all too well.

School Boards as Creatures of the State

Legislatures exercise great control over local school boards because boards operate on a grant of authority from the state. Every state constitution has an education article that requires the legislature to provide for a system of free, public schools.[5] Courts have consistently

4. Robert W. Flinchbaugh. *The 21st Century Board of Education*, p 32. Technomic Publishing Company, 1993.

5. However, there is some debate among legal scholars about whether Mississippi's constitution actually does contain an education clause. Alabama's constitution has one, but it is in danger of being removed (again) by an activist state Supreme Court. See Adam Cohen, "After 10 Long Years, Alabama is Back Where It Started," *The New York Times*, p. A24 (3/1/02).

held that the authority for public education is "a central power residing in the state legislature."[6] Courts have also upheld legislatures' power to create, reorganize and abolish local school districts, even when district residents object.[7] Moreover, the mission of local school boards can be altered by the legislature with the passage of amendments or new statutes. For example, Kentucky entirely rewrote its education code in 1990, changing the governance roles of all players in education, including local school boards. Texas followed suit in 1995.

School Board Duties Defined Via Accretion

The school board's stated mission, as described in several state education codes, is to set policy and guide the management of schools in a district. An inventory of six state education codes shows that legislatures have heaped more responsibilities on local boards, requiring them to perform a variety of tasks that do not necessarily align with the stated mission. Board members must wade through a sea of legislated responsibilities that range from levying taxes and hiring the superintendent to selecting materials for sex education courses and ensuring that students dress appropriately.

Appendix 2 lists the various duties assigned to school boards in six states: Texas, California, North Carolina, Iowa, Massachusetts, and Pennsylvania. These states were chosen to represent a sampling of states from across the country, including several that had attempted to streamline their education codes (Texas and North Carolina). Appendix 3 reviews two states and their state and mayoral takeover provisions (New York and Pennsylvania.)

Given the haphazard way school board duties have been defined, confusion of mission and priorities was almost inevitable. School boards were assigned duties from above, by legislatures that needed to off-load problems to some subordinate agency, and by courts needing to assign responsibility to administer the resolution of cases. No one was responsible for maintaining a clear mission or for fending off assignments that would diffuse school boards' effort and attention.

Why Past Approaches to Focus School Board Missions Have Not Worked

If, as this argument suggests, the net result of these actions is to blur school boards' focus on the quality of instruction, what can be done? Three approaches have been proposed:

> ***Discipline via Standards***—An alliance of education scholars and business leaders have suggested that the cacophony of demands on school boards and schools be reconciled. They

6. M. McCarthy and N. Cambron-McCabe, *Public School Law, Teacher and Student Rights* pp. 2-7 (1992).
7. Ibid.

hope to accomplish this by eliminating all requirements unrelated to student safety and civil rights and aligning spending, curriculum, testing and teacher training around specific expectations for student learning.

School Board Training—Some (including the National School Boards Association and the Institute for Educational Leadership) have suggested that training is the answer. They exhort school board members to restrain themselves, and to focus only on big policy issues.

Imitating Boards of Private Businesses—Others, including big-city business groups that recruit experienced executives to run for the school board, suggest that people who have learned about board missions in business can transform school boards. In business, boards are obligated (in theory at least) to represent shareholders, not the interests of vendors or of factions within the company.

But none of these solutions guarantees the results promised. The standards movement, which has won at least verbal endorsement in all but one state, prescribes a desirable result, but doesn't provide the methods needed to attain it. With few exceptions (notably Kentucky, North Carolina, and Texas) standards have imposed new requirements without eliminating old ones. Even in the states where standards-based reform is most advanced, school boards' attention is still drawn to adult conflicts over jobs, money, and allocation of students to "desirable" programs.[8] While exhorting school board members during training to restrain themselves and stick to the major issues is helpful, the pressure to revert to micro-management once the board members return to the district are nearly insurmountable. And the theory and practice of business boards has been called severely into question in recent months.

Of interest also is the fact that although each of the options above sets out to control and direct board behavior, each of them also accepts the existence of current boards and their governance arrangements and structures pretty much as a given.

However, other options exist or could be created.

Options for Righting the Balance in Favor of Trusteeship

Structure and incentives matter. If school board members have no opportunity to steer jobs toward friends and supporters, the time and energy spent on patronage will decline. If school board members lack authority to intervene in the operation of schools on behalf of individual

8. See Hill and Lake on WA state standards

constituents, they are likely to spend less time on casework. If state and federal governments do not require school boards to develop separate administrative mechanisms for each of dozens of state and federal programs, boards' attention will not be drawn in so many directions.

Under those circumstances school boards would still be free to be unfocused and ineffectual, but they will not be driven in those directions by law and policy. The key to changing school boards' missions probably lies with state government. School boards are truly creatures of the state, and their basic tendencies are set by state law.

At least three possibilities present themselves for reorienting board behavior around trusteeship on behalf of children. Of the three, the third is by far the most radical and far-reaching.

Broaden the *constituency* to which school board members answer: Narrow constituencies, e.g. particular neighborhoods, especially if these are dominated by a particular racial or income group, are assumed to predispose board members to single issue politics and to "bringing home the bacon" without regard to consequences for the rest of the district. Proposals to broaden board members' constituencies, e.g. through district-wide elections or mayoral appointment, are supposed to weaken links between board members and particular interest groups.[9]

Limit school boards' basic powers and duties: Broad powers and duties, such as the authority to order changes in any school's staffing or procedures, are assumed to predispose board members toward micro-management and away from board oversight of school quality. Proposals to narrow board members' duties, limiting their activities to approval and performance oversight of whole schools and leaving questions of hiring and compensation to be resolved at the school level, are supposed to eliminate the possibility of patronage and therefore focus board members' attention on management of a portfolio of schools.

Eliminate school boards' *exclusive authority* to oversee schools in a particular geographic area: Exclusive authority to provide public schools—a school board's status as the only entity that can determine whether a school may receive public funds—is assumed to encourage complacency about school quality, especially in low-income areas where parents have little political clout and have too little money to choose

9. See Kirst, Michael, new CPRE Paper. See also, Hill, Pierce and Guthrie, *Reinventing Public Education: How Contracting Can Transform America's Schools*, Chicago, University of Chicago Press, 1996. Hill, Campbell and Harvey, *It Takes a City*, Washington D.C., Brookings Press, 2000.

Table 1:
How Proposed Reform Options Change School Board Powers and Incentives

Reform Options	Changes in Powers	Changes in Incentives
Mayoral appointment	School Board limited by mandates set by the appointing authority	Pressure on the school board to represent the overall interest of the city
At-large election	School board powers unaffected	Pressure on the school board to represent the overall interest of the city
Competing school boards or free entry of schools seeking vouchers	School Board is no longer the sole local provider of public schools	Pressure on the school board to provide more attractive schools than competitor
Indirect provision of schools via charters and contracts	School board no longer manages schools or hires staff. Works via performance contracts with school providers.	Pressure on the school board to create attractive terms and conditions for school providers

private schools. Proposals to allow multiple boards to authorize schools in the same geographic area, or to allow any competent entity to start a school and compete for students, are supposed to force school districts to pay attention to school quality, and do whatever is necessary to keep parents from becoming disaffected and enrolling their children in schools provided by other entities.[10]

Table 1 (facing page) summarizes the changes in school board powers and incentives implied by these proposals.

Each of these options also has its limitations. For example:

> Mayoral appointment does not insulate board members from acting as caseworkers and dispensers of patronage. It just changes the person (from themselves to the mayor) on whose behalf members do these things.
>
> At-large election makes school board membership even more attractive to seekers of higher office, and it does not prevent members from appealing to the interests of just enough groups or neighborhoods to get them elected. As Hess has found, at-large election also favors "establishment" figures over members of poor and minority groups.[11]
>
> Competition does not guarantee that any school board will take on the hard work of providing good schools in troubled areas where parent and neighbor groups are quiescent or disunited. Competitors might try to avoid these areas, or tacitly agree to invest very little in them.
>
> Indirect provision requires something that may not exist: high-quality school providers willing to compete for contracts. It also does not prevent boards from adopting lower standards for schools in challenging neighborhoods.

Yet variations on each of these options are being implemented with varying degrees of success in big-city districts across the country—Chicago, Cleveland, Detroit, and Philadelphia and Chester, Pennsylvania. Arizona and California charter school laws permit school districts to authorize schools in other districts. In Milwaukee, Cleveland, and Florida, voucher programs have changed school board incentives and behaviors.

While it's too soon to say that any of these efforts is an unqualified success, what each of them does—and what each of the options pre-

10. See Kolderie, *We Must Withdraw the Exclusive*. See also Hess, the *Whisper of the Axe*.
11. Hess, Frederick M. *School Boards as the Dawn of the 21st Century: Conditions and Challenges of District Governance*

Table 2:
Comparisons of Board Missions Under Two New Governance Models

Board Responsibilities	Charter/Contract School District Board with "Exclusive" Power to Provide Schools in a Locality	School Board Competing with Other Boards or Independent Voucher-seeking Schools
Set Achievement Standards	Set limited district standards within state standards	Set limited standards based on state/district standards
Define Methods for Measuring Student Progress toward Achievement Standards	Use school contracts to define methods	Define methods differently depending on competition and parent demand
Gather/Analyze Data on Student, School, District, Board Performance	Done by independent evaluator	Done by district
Hire and Supervise a Superintendent	Board's main mission, though choice is driven by need to compete effectively	Board's main mission, though choice is driven by need to compete effectively
Authorize New Schools	Authorizes new schools to meet community needs but does not operate schools	Start new schools based on market demand and opportunity
Intervene with Failing Schools	Establish interventions or terminate contracts with failing schools	Prune portfolio to maintain Board's reputation
Control School-level Budget/Resources	Give schools total control	Vary control with school need and capacity
Choose Curriculum and Instructional Methods	Set by schools	Vary with school need and capacity
Design Professional Development Plans	Set by schools	Vary with school need and capacity
Recruit Teachers/Principals and Negotiate Contracts for School Professional Staff	Allow schools to enter labor contracts, offer limited recruitment help	Allow schools to determine size and composition of teaching force
Negotiate Contracts for Support Staff	Set by individual schools	Variable according to performance
Establish Grievance Procedures for Staff and Constituents	Mostly controlled by schools	Managed at school level

sented above promises—is announce unambiguously that the current state of affairs is unacceptable and existing governance arrangements will no longer be tolerated.

Table 2 (facing page) provides a more detailed look at how changes in boards' powers would affect their main activities. As the table shows, limiting boards to chartering or contracting-out for schools, or forcing them to compete with other boards or independent schools, would not totally eliminate their current main functions.

But the manner in which those functions were performed almost certainly would change. For example, school boards would certainly want superintendents to attend to daily operations and to propose ways of improving school quality. However, under competitive conditions the superintendent's job would be focused on identifying and proposing responses to threats and opportunities. This is a far cry from the superintendent's current dominant work of keeping peace with unions and managing political conflicts.[12]

Of course proposals to change the way board members are selected could be combined with provisions that force them to compete for students. Combination reforms increase the likelihood that school boards would focus on questions of school quality. For example, school boards could both be elected city-wide and forced to compete with other school boards authorized to operate in the same geographic area. This could be accomplished by having local citizens elect two or more independent school boards, or by having one elected city-wide and another appointed by the mayor. Something like this was done for charter schools in Washington D.C., where both the elected local school board and a special charter board were authorized to charter schools anywhere in the city. See also the 1996 Education Commission of the States Report, *Bending Without Breaking*, which suggests ways boards with new powers could be introduced gradually, incrementally taking over management of an entire local school district from an existing board.

One way to think of the three reform proposals is to consider implementing each of the three of them independently. But it is also possible to think about implementing them in combination.

Table 3 identifies some possible combinations of reforms and shows how they might jointly affect school board incentives and behavior.

It is possible that none of these changes is enough to transform deeply rooted patterns of school board behavior. Existing school board members are likely to resist changing their modes of doing business, regard-

12. For a fresh look a the superintendency, and how competition and performance pressure affect the job, see Howard Fuller et al, *Structured to Fail*, Seattle, Center on Reinventing Public Education, 2002 (forthcoming).

Table 3:
Possible "Combination" Reforms and Their Consequences

	Competition with Other Boards Serving the Same Area	Competition with Independent Voucher-redeeming Schools	Limitation of Board Powers to Chartering or Contracting for Schools
Citywide Election	Need to run city-wide discourages "writing off" poor areas. Competition discourages inefficiency, curbs power of employee unions.	Need to run city-wide discourages "writing off" poor areas. Competition discourages inef-ficiency, curbs power of employee unions. Competition forces board to work on transforming its worst and least popular schools.	Need to run city-wide discourages "writing off" poor areas. Indirect operation of schools renders moot many elements of the state code. Need to maintain a portfolio of good providers discourages over-regulation of schools and personnel.
Mayoral Appointment	Mayor's pressure discourages "writing off" poor areas. Appoint-ment screens out "self-promoting" candidates. Competition discourages inefficiency, curbs power of employee unions.	Mayor's pressure discourages "writing off" poor areas. Appoint-ment screens out "self-promoting" candidates. Competition discourages inefficiency, curbs power of employee unions. Competition forces board to work on transforming its worst and least popular schools.	Mayor's pressure discourages "writing off" poor areas. Indirect operation of schools renders moot many elements of the state code. Appointment screens out "self-promoting" candidates. Need to maintain a portfolio of good providers discourages over-regulation of schools and personnel.

less of changes in their formal powers or modes of selection. However, new board members, people who accept appointments or choose to run subsequent to changes in board powers, are far more likely to understand the incentives created by new arrangements.

Targeted training and recruitment would greatly speed school board members' adaptation to new roles and powers. On the training side, a promising mechanism already exists, in the annual training sessions for newly elected big-city board members, offered by the Houston-based Center for the Reform of School Systems. Led by former Houston school board member Donald McAdams and funded by the Broad Foundation, the training acquaints school board members with radical options about how they might define their roles, relate to superinten-dents, use data, etc.

CONCLUSION: Trying Out Promising Ideas

The ideas suggested in the previous section will be controversial. Too many powerful people have something to lose. But the last few decades of education reform have shown us that simply tinkering at the edges is not enough to ensure that changes will take place. Reforms need to be comprehensive and need to affect every level of the education system. We must know by now that we simply cannot just bring in new superintendent and a new plan and think they can succeed when no one before them has ever been able to. So, the school board, and the legislatures that assign it responsibility, need to answer how they will make sure that the trusteeship, the most important and neglected function of boards, will gain status. To do so, boards need to be relieved of the political and administrative pressures that cause them to focus on the day-to-day life of schools, rather than broad policymaking.

As controversial as these ideas may be—contracting school boards, appointing them mayorally or requiring boards to compete to manage schools—some are actually being tried. Competition between school boards and competition with independent school providers is already underway in states that allow any district to charter schools anywhere in their state.

This is the first time these new board governance ideas have been aired. There are surely elements of the proposals that require more investigation, or perhaps will necessitate changes in laws we have not considered. Criticism and independent analysis will help refine them.

Ultimately, however, we cannot know how successful these ideas are until they are tried. One possibility for testing them is to encourage states to mandate one or another of the new school board models when they take over a failing big-city district. Though much of the work to get these ideas tried will be political, there is a role for foundations. If new governance methods were put in place, school boards would need training in how to operate under the new structure. Foundations would be an ideal sponsor for board training in new models and the documentation of results.

APPENDIX I:
SCHOOL BOARD DUTIES DEFINED BY ACCRETION UNDER STATE LAW

Quasi-Legislative Duties

As a legislative body, the school board is responsible for establishing policies that will lead to the effective operation of the district. These duties can range from delegating responsibilities to the superintendent to establishing goals for the district. Massachusetts's description of the responsibilities of the board offers an example of the range of duties performed by its members.

> The school committee in each city and town and each regional school district shall have the power to select and to terminate the superintendent, shall review and approve budgets for public education in the district, and shall establish educational goals and policies for the schools in the district with the requirements of law and statewide goals and standards established by the board of education. (MA—Chapter 71: Section 37).

Boards have authority to delegate their powers or duties to other offices and agencies. In California, for example, the school board "may delegate to an officer or employee of the district any of [its] powers or duties. The board, however, retains ultimate responsibility over the performance of those powers or duties so delegated" (CA—35161). In addition, many school boards are responsible for duties not directly delegated to them, as in this example from North Carolina: "All powers and duties conferred and imposed by law respecting public schools, which are not expressly conferred and imposed upon some other official, are conferred and imposed upon local boards of education" (NC—115C-36). This last stipulation leaves open the possibility for a school board to accrue even more responsibility over the workings of the district than may be necessary for managing the public schools.

School boards are also responsible for levying and collecting taxes and issuing bonds, adopting student codes of conduct, and creating yearly reports for the state board of education. In recent years, school boards have begun authorizing and regulating charter schools in their district. The laws also require that board policies and procedures address racial balance and equity among the public schools. As evidenced in the school codes, school boards' legislative duties are the most extensive of the duties it performs in the district, and perhaps most aligned with its mission to provide an adequate school system.

Executive Duties

Local school boards engage in executive responsibilities that require administrative decision-making. These duties include hiring and firing of personnel; acceptance and administration of federal and private funding; and maintenance of schools and classrooms as provided by law. The executive responsibilities of the board are essentially to assure that agencies and personnel who have been delegated board functions are performing them efficiently and effectively. Boards in several of the

research. In North Carolina.

> "Local boards of education are authorized to sponsor or conduct educational research and special projects approved by the Department of Public Instruction and the State Board of Education that may improve the school system under their jurisdictions" (NC - 115C-47 (8)).

Quasi-Judicial Duties

While the judicial mission of the school board is not as extensive as the legislative and executive missions, the responsibilities are significant. School boards hear evidence, apply law and render judgment in teacher firing and contract non-renewal decisions, and in appeals of building-level student disciplinary actions. In some instances, the board's decision is final and cannot be appealed. In other situations (i.e. employment decisions), the aggrieved party can turn to the court system for relief after exhausting the remedies available within the school system.

Some state education codes grant local school boards the authority to issue subpoenas to aid in an investigation, and in North Carolina, to punish individuals for contempt "for any disorderly conduct or disturbance tending to disrupt them in the transaction of official business" (NC—115C-45).

Duties Imposed by Contracts

In the early 1970s, many local school boards found that they could no longer meet teacher unions' salary demands. They started to offer unions concessions over teacher work rules, policies on teacher assignment, limitations on teacher responsibility outside their classrooms, and constraints on school principals' management discretion.[13]

Collective bargaining agreements now define how school boards perform their functions. In general, the scope of a board's duty to bargain extends to all "conditions of employment." Some researchers contend that the bargaining scope is so expansive that unions hold considerable power over the management and direction of public education in a district.

Duties Under Federal Civil Rights Laws

Federal laws create individual rights to services or educational opportunities, and define the responsibilities of school boards and districts to secure these rights. School boards that condone or enforce policies that

13. See McDonnell, Lorraine, and Anthony Pascal, *Teacher Unions and Educational Reform*. Santa Monica CA, RAND, 1988. See also McDonnell, Lorraine, and Anthony Pascal, *Organized Teachers in American Schools*, Santa Monica, CA, RAND 1979.

contradict the federal laws and regulations usually face loss of federal funding or some other administrative remedy, and sometimes government-instigated lawsuits for injunctive relief. In some cases, the law also allows individuals to sue for damages (frequently with the requirement that the plaintiff prove that the board intentionally deprived someone of a right).

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex. It affects decisions of school boards with respect to course offerings, access to schools and programs (including single-sex schools and vocational programs), counseling and guidance services, student marital or parental status, and participation in athletics. School boards risk revocation of federal funding and private rights of action for violations of Title IX.

Two federal laws require school boards to provide services to students with disabilities—Section 504 of the Rehabilitation Act and the Individuals with Disabilities Education Act (IDEA). These laws require that every child between the ages of 3 and 21 who has an impairment that interferes with his/her ability to learn receive additional support and services. Although the federal government allocates IDEA funds to the state, the state must disperse most of the funds to local education agencies (LEA). In order to receive federal funds, the IDEA requires a state to institute policies and procedures for providing for the "free and appropriate education" of children with disabilities. As a result, the state codifies the IDEA, adding considerably more detail and tailoring the federal requirements to the workings of the individual state.

It is at the local level that most of the IDEA programmatic requirements take effect, and LEAs, defined as school boards, are responsible for implementation. School boards are thus responsible for ensuring that children are evaluated, that federal eligibility requirements are followed, and that every disabled child has an individualized education plan (including specific requirements about who must participate in drafting the plan, what the plan must cover, automatic reviews of plans, etc.). The IDEA also specifies detailed procedural safeguards, including administrative hearings that may be conducted by local school boards, appeals processes and detailed requirements for discipline of disabled students. If a parent disagrees with a district's actions, the law provides parents with the right to bring a civil suit against the state or LEA in state or federal court.

The U.S. Department of Education's Office of Civil Rights (OCR) is responsible for enforcing Title VI of the Civil Rights Act of 1964. The passage of the Civil Rights Act empowered the Department of Education to withhold federal funds from school districts that engage in discrimination, and gave the U.S. Attorney General authority to file desegregation suits on the complaint of private citizens. OCR investigates complaints of discrimination and conducts compliance reviews of

selected institutions. When districts are found to have violated Title VI, they are provided an opportunity to voluntarily comply with the law. If compliance is not achieved voluntarily, OCR may seek an administrative hearing or refer the issue to the Department of Justice for initiation of court proceedings. If OCR prevails in the administrative hearing, the Department of Education may withhold federal funding from the district.

School boards and individual board members can also be held liable for violating someone's civil rights under Section 1983 of the Civil Rights Act. The protected civil rights are embodied in the U.S. Constitution and federal statutes, including the Individuals with Disabilities Education Act, the Family Educational Rights and Privacy Act and the Drug Abuse Prevention, Treatment and Rehabilitation Act. Generally, Section 1983 claims arise out of the following activities:

- Staff personnel decisions, including termination, transfer or failure to promote;
- Conduct of board meetings;
- Adoption of policies that inhibit free expression, establish or inhibit free exercise of religion, or tread on another judicially recognized liberty.[14]

Individual board members are generally immune from liability for civil damages "insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known."[15] This standard holds board members accountable for knowing the law as well as a reasonably competent public official should know the law governing his conduct. Ignorance of "clearly established law" does not work as a defense. This is problematic for school board members, who likely receive very little training on federal civil rights laws.

As agencies of local government, school boards (rather than individual members) are not immune from suit under Section 1983.[16] The U.S. Supreme Court found that Section 1983 was intended to serve as a deterrent against constitutional abuses by municipal agencies. Thus, school boards are liable for conduct that infringes on civil rights, whether the infringement was intentional or not. The conduct at issue is the implementation or execution of "a policy statement, ordinance, regulation, or decision officially adopted and promulgated"[17] by a school board.

Remedies for successful Section 1983 claims are money damages and injunctive relief. In most states, the personal finances of individual

14. David B. Rubin, *School Board Member Liability Under Section 1983*, p. 4. National School Boards Association, 1992.
15. *Harlow v. Fitzgerald*, 457 U.S. 800 (1982).
16. *Owen v. City of Independence*, 445 U.S. 622 (1980).
17. *Monell v. New York City Dep't of Social Services*, 436 U.S. 658, at 690-91 (1978).

board members are protected by legislation or policies that provide for indemnification of board members from exposure to civil actions. Civil rights liability insurance is also available from most companies that insure school districts. However, where punitive damages are awarded, individual board members are seriously at risk of personal financial exposure. This is because punitive damages require proof of egregious conduct, which is often excluded from indemnification statutes and insurance policies.[18]

Duties Under Federal Categorical Programs

Local school boards have the power and authority to accept and administer federal funds. The North Carolina statute specifically mentions the Elementary and Secondary Education Act of 1965 (ESEA) and the Economic Opportunity Act of 1964, along with "other federal acts or funds from foundations or private sources." (NCGA General Statutes—GS section 115C-47(7)) With the authority to administer federal funds, the statute requires school boards to "comply with all conditions and requirements necessary for the receipt, acceptance and use of said funds." The brevity of this section of North Carolina's code masks the huge burden of implementation and compliance that local school boards face with federal programs such as the ESEA.

In some cases, the requirements of federal legislation are incorporated directly into the state code. The Family Education and Privacy Act protects students from false or misleading school record notations and limits schools' ability to disseminate educational records. Some state codes, like Pennsylvania's, contain detailed instructions governing districts' release of records and students' and parents' rights to access documents. The Individuals with Disabilities Education Act has also led to the detailed codification of district and board duties to provide a "free and appropriate public education" for disabled students.

One illustration of the impact federal legislation has on the actions of school boards is the adjustments to the school calendar some boards have made in response to new federal testing sanctions. In many states, local school boards are responsible for setting the opening and closing dates for the school year. In 2002, some boards have moved up the opening day of school and are requiring students to report a week or more early than in past years. The New York Times recently reported that a main reason for cutting summer vacation short is to provide students with more time to prepare for state standardized tests.[19] Although the tests are not new, the federal sanctions for failing to meet goals for progress on state tests will take effect this year.

Judicial decisions have also created and defined the scope of responsi-

18. Rubin at 35.
19. Jacques Steinberg, "Edgy About Exams, Schools Cut the Summer Short," *New York Times* (8/17/02). <http://www.nytimes.com/2002/08/18/education/18SCHO.html>

bilities for local school boards in the areas of desegregation, due process for students, equitable treatment for girls and boys, pregnancy leaves, locker searches, education of disabled students, funding of services at religious schools, and many other areas[20]. Some commentators argue that the proliferation of federal and state education legislation over the last 30 years, and the volumes of regulations created to implement these laws, has spawned a corresponding swell in litigation.[21] Others attribute increased judicial involvement in education to the fact that school policy is a subset of broader general public policies, like desegregation, that have been promoted by Congress and the federal executive branch[22]. Regardless of the impetus for court involvement in education, one can reasonably expect that legislatures respond to decisions made by high-level courts (i.e. U.S. Supreme Court, U.S. Courts of Appeal, and state supreme courts) by enacting laws and regulations requiring local boards to conform their actions to the court findings.

While a serious study of the policy and regulatory impacts of court decisions on local boards is beyond the scope of this paper, a simplified example is the case of due process for students in disciplinary actions. Before 1975, when the U.S. Supreme Court issued its decision in *Goss v. Lopez*[23], students were suspended and expelled at the discretion of school administrators, often without notice or a hearing. In *Goss*, the Court found that students have a 14th Amendment right to education, and therefore cannot be removed from school without due process of law.

State education codes now recognize the right to due process and detail appropriate disciplinary actions, including students' rights to notice and the process for appealing decisions made by school officials. The Pennsylvania education code devotes several entire sections of the law to student exclusions from school and hearing requirements. The code requires local boards to define and publish the types of offenses that would lead to suspension or expulsion (section 12.6(a)), and to hold formal hearings prior to all expulsions (section 12.7(b)). Detailed due process requirements for the formal hearings are laid out in the Pennsylvania code. North Carolina devotes less attention to the details of due process, but makes it the duty of local school boards to hear appeals of school level decisions and to insure that proper notice is given to parties and a record of the hearing is made. (NCGA 115C-45 (c))

Desegregation cases, following in the wake of the 1954 Supreme Court decision in *Brown v. Board of Education of Topeka*,[24] have resulted in more

20. Louis Fischer, "When Courts Play School Board: Judicial Activism in Education," 51 Ed.Law Rep. 693 (April 13, 1989).
21. Mark G. Yudof, David L. Kirp and Betsy Levin. *Educational Policy and the Law, Third Edition*, West Publishing Company, 1992.
22. Fischer at 705, noting that Donna Kerr has described the interlocking relationship of school policy within a more general policy as the "nesting" of educational policy.
23. 419 U.S. 565, 95 S.Ct. 729, 42 L.Ed.2d 725 (1975).
24. 347U.S. 483, 74 S.Ct. 686, 98 L. Ed. 873(1954).

litigation concerning education and more court involvement in education policy than any other kind of litigation. This is mainly due to the fact that lower federal courts often maintained jurisdiction over cases for many years, while waiting for desegregation to be achieved. The Supreme Court shifted away from desegregation beginning in the late 1980s, and federal district courts and the circuit courts of appeals have continued to release districts from mandatory desegregation orders. However, the legacy of court involvement and oversight in desegregation is instructive.

Local school boards keenly felt the impact of desegregation cases, as courts directly dictated boards' actions through judicial orders and consent decrees, sometimes referred to as "structural injunctions" or "institutional reform decrees."[25] These court decrees supersede a school board's authority to manage its own affairs, and make the board accountable to the court as well as the legislature. Consent decrees have required school boards to take on new responsibilities such as equalizing teacher salary expenditures, insuring racial balance through forced busing, cooperating with a court-appointed special master, and collecting and analyzing data to demonstrate progress toward desegregation. Legislatures are influenced by the requirements of these court injunctions and sometimes codify duties ascribed to a single district into the general laws applicable to all districts in the state.

Sometimes, reform decrees have had unintended effects on school board operations. For example, as part of Boston's desegregation decree, the board was ordered to make appropriations above the funding levels set in previous years. While the school board had the legal authority to do this, the board's charter laws stipulated that the mayor and city council had to approve any excess appropriations. Thus, the court order set off a joint budgeting process that required the school board to consult with other local authorities.[26]

Other "Extraneous" Duties

In addition to their legislative, executive, and judicial missions, school boards have been given tasks that go well beyond the scope of the obligations to create policies and manage the operation of schools in a district.

One area that receives considerable attention in the state codes is transportation. In Pennsylvania, school boards are responsible for all aspects of transporting students to school. In Iowa, boards must include in their rules "provisions regulating the loading and unloading of pupils from a school bus stopped on the highway during a period of reduced highway visibility caused by fog, snow or other weather conditions" (Iowa 279.8). In Iowa, North Carolina, and Texas, school

25. Horowitz, Donald. Decreeing Organizational Change: Judicial Supervision of Public Institutions. 1983 Duke L.J. 1265 (1983).
26. Id. at 1293-3.

boards are also given authority to oversee parking and rules for operating motor vehicles on the school grounds. These duties include the issuing of parking stickers and the charging of parking fees.

Furthermore, school boards have the authority to create dress codes and even operate child care programs. In Iowa the school board can create policies prohibiting students from wearing gang-related or other specific apparel. In Texas, the board can require students to wear uniforms. School boards in Iowa are also given the power to "operate or contract for the operation of a program to provide child care to children not enrolled in school or to students enrolled in kindergarten through grade six and after school, or both" (Iowa—279.9). The board responsibilities discussed above show just a small portion of the many duties that do not contribute directly to the mission outlined in the state education code, but the board must still oversee the completion of these tasks.

APPENDIX 2:
SCHOOL BOARD RESPONSIBILITIES

Duties Assigned to School Boards by Eduction Codes of Texas, California, North Carolina, Iowa, Massachusetts, and Pennsylvania

- Powers and duties conferred and imposed by law respecting public schools, which are not expressly conferred and imposed upon some other official, are conferred and imposed upon local boards of education
- Must complete board of education training/school board members shall receive a minimum of 12 clock hours of training annually
- Provide an adequate school system
- Govern and oversee management of the public schools
- Review/approve district finances, including investing, borrowing, lending, and expending funds, taxing authority, and establishing employee pensions
- Keep an accurate account of the receipts and expenditures of school money
- Levy and collect taxes and issue bonds
- Audit and allow all just claims against the corporation
- Invest moneys of the corporation to the extent practicable
- Execute agreement with another district to consolidate taxing districts
- Adopt school district budget
- Adopt and install standard school accounting system
- Invest bond proceeds
- Authorized and empowered to create and establish a permanent endowment fund
- Establish and maintain a scholarship and loan fund administered by committee composed of members of the governing board and also establish an audit for that fund
- Conduct field trips or excursions in connection with courses of instruction or school-related social, educational, cultural athletic, or school band activities to and from the place in the states
- Establish district goals within state laws
- Keep minutes of its meetings, and maintain a journal of its proceedings which every official act will be recorded
- Provide annual district progress report to the state
- Prepare and submit to the department a report or proposal—then hold public meetings for comments
- Sue and be sued
- Enter legal contracts, hire legal counsel
- Power to subpoena and to punish for contempt
- Power to punish for contempt for any disorderly conduct or disturbance tending to disrupt them in the transaction of official business
- Designate hearing panels composed of not less than two members of the board to hear and act upon such appeals in the name and on behalf of the board of education
- Accept and administer federal or private funding
- Pay reasonable annual dues to the Iowa association of school boards
- Designate a person to act as liaison with department
- Employ a certified shorthand reporter to keep a record of private hearings
- Annually approve district and campus performance objectives
- Establish site-based decision-making procedures for district and campus level committees
- Annually consider reducing number and length of written reports required of district employees
- Fix time and place of meetings and notify all members of board about regular meeting
- Contract with a public or private entity to provide educational services
- Grant charter to campus or campus program
- Revoke or place on probation a charter campus or program
- Contract with county or municipality for library services
- Approve change in district boundaries
- May adopt school attendance policy for participation in extracurricular activities
- Hold annual public hearing to review performance of high school equivalency exams
- Adopt student code of conduct
- Publish annual district performance report and hold hearing for public discussion of report
- Make overall student performance data available to public at board meetings
- Conduct annual audit of dropout records and submit to state commissioner
- Hold public hearings before changing health care services offered at school
- Adopt community education development plan
- May participate in missing child prevention and identification programs
- Face state sanctions if district does not satisfy state accreditation criteria
- Right to oral and written report s of state findings in district accreditation investigation

- Powers of board are suspended if state commissioner appoints board of managers to take over district
- Create independent athletic stadium authority
- Hire/fire and set compensation of the superintendent
- Prescribe duties for superintendent
- Supply an office, equipment and clerical assistance for the superintendent
- Fix the compensation to be paid the secretary
- Hire teachers/ enter collective bargaining, establish personnel performance standards
- Fund the cost of group health insurance plans, nonprofit group hospital service plans, nonprofit group medical service plans, and group life insurance plans for the benefit of the employees of the school district
- Provide for training of teachers
- Adopt rules and policies limiting the noninstructional duties of teachers
- Determine hours of employment for teacher assistants
- Make rules concerning the conduct and duties of personnel
- Waive the probationary period for any teacher who previously has served a probationary period in another school district
- Adopt a program for payment of a monetary bonus, continuation of health or medical insurance coverage, or other incentives for encouraging its employees to retire before the normal time
- Duty of every local board of education to provide for the prompt monthly payment of all salaries due teachers and other school officials and employees, and all current bills and other necessary operating expenses
- Contract with and employ any persons for the furnishing to the board of special services and advice in financial, economic, accounting, engineering, legal, or administrative matters
- Maintain employee criminal records, establish sexual harassment and employ conduct policies
- Hire/fire assistant superintendents, district personnel
- Hire/fire principals
- Establish school improvement teams with each principal
- Establish written job description for all supervisory positions
- Review the administrator's evaluation, review the reasons for nonrenewal, and give the administrator an opportunity to respond
- Maintain a library, including hire/fire librarian
- Hire/fire psychologists/physicians
- Select school attendance officer
- May employ security personnel
- Employ tax assessor/collector
- Employ for head coach of any interscholastic athletic activities or for assistant coach of any interscholastic athletic activity, an individual who possesses a coaching authorization issued by the board educational examiners
- Select all teachers and make all contracts necessary or proper for exercising the power granted and performing the duties required by law
- Accept or reject superintendent's recommendation regarding selection of district personnel
- Adopt performance criteria and appraisal processes for teachers and administrators
- Adopt policy for selecting certified master teachers to receive state stipend
- Grant employee leave of absence
- Establish health care plan
- Terminate teachers
- Hold hearings re: teacher firing or non-renewal decisions
- Adopt policy for selection of campus principals
- Establish policy designating categories of teacher positions
- Approve a policy for educational leave for licensed school employees and for reimbursement for tuition paid by licensed school employees for courses approved by the board
- Secure liability insurance
- Provide by rule or regulation for the reimbursement of any person or persons for the loss, destruction, or damage by arson, burglary or vandalism of personal property
- Transport district students
- Include in its rules provision regulating the loading and unloading of pupils from a school bus stopped on the highway during a period of reduced highway visibility caused by fog, snow or other weather conditions
- Purchase of activity buses with local capital outlay tax funds, and are authorized

to maintain these buses in the county school bus garage
- Authorized to acquire, own, lease, contract and operate school bus
- Provide state with definition of hazardous traffic conditions in district
- Set official travel per mile reimbursement rate
- May grant permission to employ bus driver with criminal record
- Regulate parking of motor vehicles
- Charge fee for parking and traffic control
- Issue vehicle identification insignia
- Prepare and submit cost estimate forms to permit the identification and substantiation of total project costs, building cost, reimbursable site development cost, reimbursable rough grading costs, sewage system costs
- Make rules for the care of the schoolhouse, grounds, and property of the school corporations and shall aid in the enforcement of the rules and require the performance of duties imposed by law and the rules
- File with the department of natural resources the results of an energy audit of the buildings owned and leased by the school district
- Purchase equipment and negotiate and enter into loan agreement and issue a note to pay for the equipment
- Enter into a rental or lease arrangement
- Provide flags for display outside each district school
- Provide for the display of the United States and state flags in each classroom
- Acquire suitable sites for schoolhouses or other school facilities
- Acquire property, construct buildings, and maintain classes outside its boundaries on sites immediately adjacent to school sites of the district within its boundaries
- Supply/maintain school facilities
- Maintain schools and classes as provided by law
- Purchased and holding real and personal property
- Acquire, hold and sell real and personal property
- May contract for energy or water conservation services
- Contract for use of athletic facilities
- Determine district construction and facility improvement needs
- Authorize sale of minerals in land belonging to school district
- Maintain a historical inventory system to keep track of all equipment valued at purchase at $500 or above
- Enter into a rental or lease arrangement
- Charge fees for materials, athletic equipment, parking, summer school courses
- Select textbooks from state conforming and nonconforming lists
- Adopt written policies concerning the procedures to be followed in their local school administrative units for the selection and procurement of supplementary textbooks, library books, periodicals, audiovisual materials, and etc.
- Establish community media advisory committees to investigate and evaluate challenges to textbooks and supplementary instructional materials
- Custodians of all textbooks purchased by the local boards with state funds
- Purchase dictionaries, library books, and furnish schoolbooks to indigent children when they are likely to be deprived of the proper benefits of the school unless so aided
- Authority to sell textbooks at contract price
- Execute bonds to procure arms, ammunition, uniforms and other needed property for military instruction courses
- May adopt rules and procedures for acquisition of goods and services
- Adopt rules and regulations establishing a policy of open enrollment within the district for residents of the district
- Adopt policies concerning district child accounting, attendance, admissions, excusal and program procedures—then distribute these rules to parents in written form
- Inform parents of district enrollment options
- Make agreements with other boards of education to transfer pupils from on local school administrative unit to another unit
- Provide methods whereby parents my choose not to have their children comply with an adopted school uniform policy
- Adopt policies regarding parent relations, including removal of children from classroom during school hours and access to child's classroom and instructional materials
- Require and maintain an annual school accountability report card and publicize such reports
- Set school schedule, including school year, days and number of hours to attend school

APPENDIX 2:
SCHOOL BOARD RESPONSIBILITIES

- Ensure racial balance and equality
- Establish magnet and/or special schools
- Refer all students who drop out of the public schools to appropriate services
- Establish the district's minimum entry age to kindergarten
- Admit nonresident children living in facilities or institutions
- Hold hearings re: student assignment and transfers
- Establish minimum proof of residency and inquire as to a person's eligibility for admission
- Assign and transfer any student from one facility or classroom to another
- Report all acts of school violence
- Visit each school in its district at least once each term, and examine carefully into the management, needs, and conditions of the schools
- Approve district curriculum, change curriculum, including approve school improvement plans, supply instructional materials, administer assessments
- Assure appropriate class size
- Implement the basic education program
- Implement and evaluate alcohol and drug use prevention education as a primary part of their comprehensive health education program
- Provide for the efficient teaching at appropriate grade levels of all materials set forth in the standard course of study, including integrated instruction in the areas of citizenship in the United States of America, etc.
- Maintain all of the elementary day schools and high schools established by it with equal rights and privileges as far as possible
- Establish student safety and behavior code
- Ensure schools state accredited
- Maintain schools and classes as provided by law
- Prescribe rules for the government and discipline of the schools under its jurisdiction
- Power and authority to close or consolidate schools located in the same district
- Maintain schools and classes as provided by law
- Prescribe rules for the government and discipline of the schools under its jurisdiction
- Power and authority to close or consolidate schools located in the same district
- Authorize sexual education advisory committee
- Authorize business demonstration projects done for educational purposes
- Opt to consolidate administrative functions with cities or towns
- Establish summer school
- Develop a local school administrative unit safe school plan for every school
- Offer any additional programs that promote education in the district
- Authority to select and procure supplementary instructional materials
- Divide local schools administrations to attendance areas
- Provide a comprehensive school health education program that meets all the requirements of the state board
- Establish and maintain kindergartens in local school administrative units
- Require the teaching of civic literacy in high school—Declaration of Independence, United States Constitution, and the Federalist Papers
- May require the teaching of character traits in public schools: courage, good judgment, integrity, kindness, perseverance, respect, responsibility, self-discipline
- Purchase accident and health insurance for students
- Adopt a policy to authorize the observance of a moment of silence at the commencement of the first class of each day in all grades in the public schools
- Authorized to appoint advisory councils
- Install and maintain exhibits of educational programs and activities at the county fair
- Required to provide for the education and training of handicapped persons residing in the county
- Obtain copyrights for works developed by the board
- Market or license any noneducational mainframe electronic data-processing software developed by the district
- Conduct research and investigation as determined by it to be required in connection with school needs
- Adopt a code of student conduct which shall include policies governing student discipline and listing of students rights and responsibilities
- Define and publish the types of offenses that would lead to exclusion from school
- Designate a person to act as liaison with department on the project
- Suspend or expel students for use of tobacco and the use or possession of alcoholic liquor, wine, or beer or any controlled substance
- Determine the number of schools to be taught, divide the corporation into such

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APPENDIX 2:
SCHOOL BOARD RESPONSIBILITIES

wards or other divisions for school purposes as many be proper
- Establish attendance centers
- Operate or contract for the operation of a program to provide child care to children not enrolled in school or to students enrolled in kindergarten through grade six before and after school, or to both
- Provide instruction in kindergarten which gives attention to experiences relating to life skills and human growth and development
- Pay the actual cost of an asbestos project from any funds in the general fund of the district
- Obtain permission to participate in the teacher exchange program
- Provide school food service
- Encourage the business community to facilitate student achievement
- Establish an earthquake emergency procedure system in every public school building in their district
- Apply to the superintendent of public instruction for a grant to implement school safety plans
- Establish policies and/ or supervise student extracurricular and athletic activities
- Have general control of, and be responsible for, all aspects of the interscholastic athletic policies, programs, and activities
- Charge a fee for school camp programs
- Provide or make available medical or hospital service, or both, for pupils of the district injured while participating in any excursion or field trip under the jurisdiction of, or sponsored or controlled by, the district or the authorities of any school of the district
- Adopt a dress code policy that prohibits students from wearing gang related or other specific apparel
- Adopt rules re: student uniforms
- Adopt standards for student promotion
- Adopt policy to notify parent of unsatisfactory student performance
- Require each high school to post signs in counselor's offices re: automatic college admission program
- Cooperate in establishment of parent-teacher organization at each school in district
- Establish parent complaint procedures
- Adopt guidelines re: written parental consent for student participation in activities
- Adopt and strictly enforce policy limiting interruptions of classes for non academic activities
- Establish guidelines for obtaining class credit when student has been absent more than 10% of days class is offered
- Hold public meetings within boundaries of school district
- May obtain insurance against bodily injuries sustained by students participating in athletic or school-sponsored activities
- May adopt policy banning student possession of pagers on school property
- Conduct hearings when student appeals the superintendent's disciplinary action
- Provide due process hearing for student expulsion (student may be represented by counsel, etc)
- Share discipline information with other districts when student changes school district
- Coordinate with juvenile justice system on education of expelled and disciplined students
- Establish local health education advisory council to insure that community's values are reflected in health education instruction; appoint members
- Select all course materials and instruction related to human sexuality, with advice from health advisory council
- Prohibit use/possession of tobacco and alcohol, and ensure school personnel enforce policies
- Conduct and supervise career and technology classes
- May adopt resolution establishing community education child care program
- Provide for the treatment of any student determined to have dyslexia

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APPENDIX 3:
HOW STATE AND MAYORAL TAKEOVERS HAVE CHANGED SCHOOL BOARD POWERS

When states and mayors take over the management of a failing school district, the board is typically replaced with an appointed body. This appointed committee is charged with managing the district. The duties assigned to the committee by the legislature are instructive, in that they suggest the essential responsibilities necessary to govern and manage a district. These descriptions are more limited than the accumulation of directives that we found in state education codes.

We reviewed two state takeover statutes—Pennsylvania and New York. In the case of Pennsylvania, the statute provides some expanded powers to act in the "emergency" situation of state takeover. For example, amending school procedures and supervising/directing teachers and principals. New York, on the other hand, severely limits the board's responsibilities so that the mayorally appointed chancellor is in charge of actual administration.

Pennsylvania:

- Responsible for the operation, management and educational program of district
- Authority to levy taxes and incur debt
- Enter into agreements necessary to provide for operation, management and educational programs.
- Agreements must include fiscal and academic accountability measures.
- Responsible for all financial matters related to district
- Adopt a budget
- Appoint people to conduct fiscal and performance audits
- Enter agreements with persons or for-profit or nonprofit organizations to operate schools
- Grant and revoke charters
- Employ professional and management employees who don't hold state certification
- Contract for services to school district
- Close or reconstitute a school
- Suspend professional employees
- Appoint managers, administrators or for-profit or nonprofit organizations to oversee operations of a school or group of schools
- Reallocate resources, amend school procedures, develop achievement plans and implement testing or other evaluation procedures
- Supervise and direct principals, teachers and administrators
- Negotiate new collective bargaining agreement (with certain parameters—meet or exceed state average school day and instructional days)
- Delegate powers necessary to carry out mission

- Employ or contract to review financial and educational programs of school buildings and make recommendations to the committee.
- Annual report to governor on progress toward improvements.

New York:

- The board shall exercise no executive power and perform no executive or administrative functions—no day-to-day supervision or administration of the operations of any school within the district
- Hold at least 12 meetings per year
- Advise chancellor on matters of policy affecting the welfare of the city school district and its pupils
- Establish city-wide educational strategies including performance standards for educational and administrative effectiveness
- Approve standards, policies, objectives, and regulations proposed by chancellor
- Consider and approve any other standards, policies, objectives, and regulations as specifically authorized or required by state or federal law or regulation
- Be government or public employer or all persons appointed or assigned by the city board, provided chancellor has authority to appoint certain staff
- Serve as appeal board
- Maintain jurisdiction over city-wide educational policies regarding special, academic and vocational high schools
- Approve contracts that would significantly impact provision of educational services or programming
- Approve litigation settlements only when they would significantly impact provision of educational services in district

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